
Board of Ethics



Annual Report 2003-2004

City of Chicago
Richard M. Daley, Mayor
Dorothy J. Eng, Executive Director



Board Members

Darryl L. DePriest

Chair

**General Counsel, American Bar Association
Appointed 1990**

Eileen Corcoran (through April 2004)

**Senior Manager, Ernst & Young (Retired)
Appointed 1996**

Robert S. Grodnicki

**Licensed Clinical Social Worker
Supervisor, Catholic Charities of Chicago
Appointed 2004**

Michael F. Quirk

**President, De La Salle Institute
Appointed 1996**

Mary Beth S. Robinson

**Vice President, Senior Claims Counsel
Attorneys' Liability Assurance Society, Inc.
Appointed 2002**

Miguel A. Ruiz

**Partner, Pretzel & Stouffer, Chartered
Appointed 2002**

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Jacinta Wong (through July 2004) and Doretha L. Jackson
Administrative Assistant

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SECTION I

Chair's Report

“Public confidence in the integrity of the Government is indispensable to faith in democracy; and when we lose faith in the system, we have lost faith in everything we fight and spend for.”

–Adlai E. Stevenson, Jr.

Now entering its eighteenth year as a City agency, the City's Board of Ethics is the office responsible for helping to ensure public confidence in Chicago government. The agency is small but productive. During its most recent reporting year, which is summarized in this Annual Report, the Board witnessed a number of changes, both within City government generally and within the office itself.

All of these changes in turn presented challenges. The City's budgetary troubles deepened, a record number of City employees opted to retire (thereby doubling the number of complex post-employment opinions issued by the Board) and the City Council amended the Governmental Ethics and Campaign Financing Ordinances. The Board of Ethics saw its staff—once twelve—dwindle to six in early 2004. Fortunately, as I write this, the agency is back to full staff, which is nine. Meanwhile, the office is, by nearly all measures summarized in this Annual Report, busier than ever. The number of cases handled by the agency more than doubled, the number of training sessions conducted by the Board—and the number of persons attending those sessions—continued to rise, and the number of registered lobbyists continued to increase, as did the number of City employees and officials filing Statements of Financial Interests. The Board also revamped what is becoming its most public face: its website, adding a new interactive training program and other educational materials, including topical bulletins. We hope to add a database of redacted Board advisory opinions in the coming year, allowing the user to view the text of issued opinions and to search them by subject matter.

As the Board begins its eighteenth year as an arm of City government, we recognize the importance of our mission, and the challenges ahead. I have every confidence that the agency, including the dedicated Board members named in this Report, and the hard-working and creative staff (also named in this Report), will meet those challenges energetically, and continue to merit the confidence that City governmental personnel and citizens alike have invested in it.

I am honored to present this Eighteenth Annual Report of the City of Chicago Board of Ethics.

Respectfully submitted,



Darryl L. DePriest, Chair

SECTION II

The Board of Ethics

About the Board of Ethics

The Board of Ethics was established 1987 to administer and enforce the City of Chicago's Governmental Ethics and Campaign Financing Ordinances, and to conduct the educational and regulatory programs mandated by these Ordinances. The Ordinances exist to ensure that public officials and employees perform their public responsibilities impartially and independently, that public office not be used for private gain, and that the public can be confident in the integrity of its government officials and employees.

The Board's members and its Executive Director are appointed by the Mayor and confirmed by City Council. The Board meets each month and its members serve without pay. The Board is staffed by nine full-time employees, including the Executive Director. The agency's budget for fiscal year 2004 was \$602,542.

The Board's Program Areas

Education

A critical part of the Board's work is educating City employees and officials, persons who have or seek City contracts, persons who lobby City government and members of the public about the requirements of the Ordinances. During this past year, the Board implemented several new educational initiatives, which are summarized in this Report on pages 7-8.

Advice and Guidance

Each year, the Board handles approximately 2,000 requests for information or guidance from persons with questions about the agency or standards of conduct contained in the Ordinances. The great majority of these requests come from City employees and officials, but many also come from members of the public, the media, and other governmental agencies. More information about this aspect of the Board's work is summarized on pages 9-11 of this Report.

Regulation and Disclosure

The Board publishes, distributes, reviews, maintains and makes available to the public:

- Statements of Financial Interests filed annually by nearly 12,000 City employees and officials;
- Disclosure forms filed by married employees as required by Mayoral Executive Order 97-1;
- Registration statements and activity reports filed by persons who lobby City government.

Section II - The Board of Ethics

Enforcement

The Ordinances impose upon the Board the following responsibilities:

- monitoring contributions made to elected City officials and candidates for elected City office to ensure that contributors comply with the limitations imposed by the Campaign Financing Ordinance;
- commencing preliminary inquiries based on information reported in public filings made by City employees, officials, registered lobbyists, and candidates for elected City office, and contributors thereto (these preliminary inquiries may lead to full-scale investigations); and
- receiving and investigating complaints of alleged violations of the Ordinances in accordance with legally mandated procedures, and recommending or taking appropriate corrective action and/or sanctions.

Public Filings

In accordance with City and state law, the Board maintains and makes available for public inspection Statements of Financial Interests, City Council members' disclosures, and all filings made by registered lobbyists.

SECTION III

The 2003-2004 Reporting Year



A. Amendments to the Governmental Ethics and Campaign Financing Ordinances

In June 2004, the City Council adopted amendments to the Governmental Ethics and Campaign Financing Ordinances. The most notable changes are: 1) all restrictions (and exceptions) for spouses are extended to domestic partners; 2) there is a \$100 per year gift cap from persons with economic interests in City business transactions; and 3) persons who violate certain provisions of the Ethics Ordinance in a manner that would also constitute a violation of state law are subject to additional fines and penalties. The following is a summary of all the changes:

Definition of “financial interest”

An exception to what constitutes a “financial interest” now includes not only an interest related to a spouse’s independent occupation, professional or employment, but also to a domestic partner’s independent occupation, profession or employment. (See § 2-156-010 (l); and § 2-156-110.)

Definition of “domestic partner”

The term is now included and defined, in §2-156-010(y) of the Governmental Ethics Ordinance, and §2-164-010(l) of the Campaign Financing Ordinance. The definition is the same as used in § 2-152-072 of the Municipal Code.

Gifts

The restrictions on gifts contained in the Governmental Ethics Ordinance now apply to gifts offered to and/or received not only by City employees and their spouses and minor children, but also their domestic partners and immediate family members of City employees or officials who reside in the same residence as those employees or officials. In addition to the \$50 limit on gifts from persons with an interest in City business, there is now a \$100 limit per calendar year on the total value of gifts from those persons. (See § 2-156-040 (a) through (f).)

Money for Advice

The prohibition imposed on employees, officials and their spouses or minor children from soliciting or accepting money or anything of value in return for advice or assistance on City business is now extended to items offered to, solicited and/or received by domestic partners of City employees or officials. (See § 2-156-050.)

Conflicts of Interest; Appearance of Impropriety

The definition of “business relationship,” and the exceptions thereto, now include not only any contractual or other private business dealing of an Alderman or his or her spouse, but also of his or her or domestic partner. (See § 2-156-080 (b) (2).)

Prohibited Conduct

City employees, elected officials, their spouses, and now, their domestic partners, as well as entities in which any of them have a “financial interest,” shall not apply for or receive any loan from a person doing or seeking to do business with the City, unless it is an ordinary loan from a financial lending institution. (See § 2-156-111.)

Section III - The 2003-2004 Reporting Year

Employment of Relatives or Domestic Partners

The prohibitions in the following provisions now apply to domestic partners as well as relatives. Employees and officials may not:

- i. Hire, advocate hiring or exercise employment authority over their relatives or domestic partners in the City agency where they are employed (this prohibition applies to City Council Committee staff but not to personal staff of Aldermen). (See § 2-156-130 (a)(i).)
- ii. Hire or advocate hiring any person for a position in the City agency where they are employed or exercise authority, supervision or control, in exchange for having their relative or domestic partner hired by another City official or employee. (See § 2-156-130 (a)(ii).)
- iii. Supervise, manage or oversee a City contract if the person with that contract employs or has a contract with their relative, or domestic partner. (See § 2-156-130 (b); (c).)

Disclosure of Financial Interests

City employees and officials (with domestic partners) who are required to file an annual Statement of Financial Interests must now disclose certain interests of their domestic partners, specifically, whether, in the previous calendar year:

- i. They, their spouse or domestic partner, or any business in which they, their spouse or domestic partner have a financial interest, received more than \$5,000 in compensation for professional, business or other services rendered to a person doing business with the City or its named sister agencies. (See § 2-156-160 (b).)
- ii. They received from any person (except from relatives or domestic partners), one or more gifts or honoraria having an aggregate value of more than \$500. (See § 2-156-160 (e).)

Sanctions

The following penalties are now applicable for the violations indicated (in addition to any penalties already in effect (See §2-156-410(a)):

- i. Any employee or official who intentionally violates §2-156-020 (Fiduciary Duty) or §2-156-060 (City-owned Property) in a manner that would constitute a violation of Section 5-15 of the State Officials and Employees Ethics Act (5 ILCS 430/5-15, et. seq.) if the illegal action were committed by an employee or officer of state government is guilty of a Class A misdemeanor as defined in the Illinois Criminal Code. (See §2-156-410(b).)
- ii. Any person who solicits, accepts, offers or makes a gift in a manner that would constitute a violation of Section 10-10 of the State Officials and Employees Ethics Act (ILCS 430/10-10, et. seq.) if the illegal action were committed by or to an employee or officer of state government shall be subject to a fine of not less than \$1,001 and not more than \$5,000. (See §2-156-410(c).)

Campaign Financing Ordinance: Gifts and Favors to Candidates

The restrictions on the offer, and receipt of gifts or other things of value contained in the Campaign Financing Ordinance now apply to gifts offered to, and/or accepted by domestic partners of candidates. (See § 2-164-020 (a).)



NOTE

Complete texts of Chicago's Governmental Ethics and Campaign Financing Ordinances, and an explanation of the June 2004 amendments, are on the Internet at:

www.cityofchicago.org/Ethics



B. Education and Training

A increasingly important part of the Board's work is educating City employees, officials and the public about the requirements of the City's Governmental Ethics and Campaign Financing Ordinances. Each year, the Board designs and conducts a variety of training classes and produces a wide variety of educational materials. Specific initiatives include:

Mandatory Ethics Training

The Governmental Ethics Ordinance requires all Aldermen, Aldermanic staff, City Council Committee staff and senior executive service employees of the City to attend ethics training every four years. Those who fail to attend by the prescribed date are subject to a \$500 fine. Upon entering City service in any positions requiring attendance at ethics training, individuals have 120 days to attend; they must attend again every four years. The Ordinance also mandates that the Board design and conduct training for these individuals. In all, about 10% of the City's workforce—about 3,800 employees and officials—are subject to this requirement. To fulfill its own obligations, the Board identifies persons required to attend, notifies them of their requirement, schedules them for classes, and confirms their attendance or non-attendance in writing. During the past reporting year, the Board offered over two dozen classes for more than 800 City employees and officials required to attend.

Other Training Offerings

The Board offers other ethics training programs for City and non-City personnel, and conducts classes for departments or bureaus upon request. This past reporting year, training offered by the Board included:

- over two dozen customized classes covering the Governmental Ethics and Campaign Financing Ordinances held for City departments and offices and contractors as requested; and
- presentations to visiting dignitaries and officials from foreign countries, including Bosnia-Herzegovina, Bulgaria, the Czech Republic, Malaysia and the Peoples' Republic of China.

Publications

The Board publishes and distributes a variety of publications summarizing aspects of the Ordinances of particular concern, including campaign financing, lobbying, and a guide for Aldermen. Many of these publications are posted on our website; all are available upon request.

Departmental Ethics Officers

Ethics Officers from each City agency and Aldermanic offices assist the Board by distributing to employees in their departments and offices written notices informing them of legal obligations with respect to the post-employment restrictions imposed on employees who have left or retired from City service, education, outside employment, post-City employment, and filing Statements of Financial Interests. Forms used by Departmental and Aldermanic Ethics Officers are available on the Board's website.

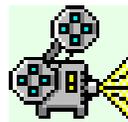
Section III - The 2003-2004 Reporting Year

Web-based Training Programs

With the cooperation and assistance of several other City departments, the Board has designed and implemented several new electronic training programs. In May 2004, a training program covering the City's post-employment restrictions "went live" on the Board's website. To view that program, please go to:

<http://egov.cityofchicago.org/city/postEmploymentQuiz/index.jsp>

In 2003, the Board posted an on-line ethics training program for City contractors, including a streaming video and interactive ethics quiz.



To view the on-line ethics training video and quiz for contractors, please go to:

<http://www.cityofchicago.org/Ethics/Media/EthicsTrainingProgram.html>



C. Guidance and Casework

Much of the Board's daily work involves responding to requests for information or guidance from City employees and officials, persons from other governmental entities, lobbyists, businesses, contractors, vendors, campaign contributors and staffs, the press and the public. Requests arrive by telephone, fax, email, letter, and in person. The Board categorizes these requests as either "inquiries" or "cases."

1

Number of Inquiries and Cases

Inquiries When someone seeks information, professional advice or guidance from the Board but does not request or receive a written response, the Board handles the matter as an "inquiry." This past reporting year, the Board handled over 1,900 such inquiries (a minimal increase over the number of inquiries received in the year that ended July 31, 2003). Most persons contacting the Board ask whether and how the Ordinances applies to specific situations. Board staff provides general information or advice, or where appropriate, specific guidance based on previously rendered written Board advisory opinions. All inquiries are handled in accordance with the confidentiality provisions of the Governmental Ethics and Campaign Financing Ordinances.

Cases If a person contacting the Board requests a written opinion, raises complex legal issues the Board has not yet addressed, or files a complaint, the Board may, as appropriate, render a written opinion, formally approve advice given orally, dismiss the complaint, or commence and conduct an investigation and issue a report containing determinations and recommendations (these include investigations and preliminary inquiries commenced by the Board based on public filings made by City employees and officials, registered lobbyists and committees of candidates for elected City office). All such matters are handled and resolved as "cases." Written Board opinions are used by staff in handling related future inquiries. All advisory opinions, complaints filed with the Board, and Board investigations and recommendations are confidential in accordance with the Ordinances.

This past reporting year, the Board approved oral or issued written advice in 52 cases, and issued 140 reports containing determinations or recommendations resulting from investigations. Compared to the reporting year that ended July 31, 2003, these figures represent a 100% increase in the number of cases in which the Board issued or approved written or oral advice, and a 300% increase in the number of cases in which the Board made determinations and recommendations as a result of concluded investigations.

Section III - The 2003-2004 Reporting Year

Table I - Subject Matter of Inquiries/Yearly Comparisons

Table I shows the subject matter of inquiries received and handled by the Board during the reporting years ending July 31, 2002, 2003 and 2004.

 Inquiries Received/Handled For The Years Ended July 31:			
<i>Subject Matter</i>	2002	2003	2004
Outside Employment	46	43	37
Post-Employment	43	57	108
Gifts/Travel/Honoraria	102	133	131
Interest in City Business	44	32	25
Campaign Financing	44	85	25
Lobbying Activity/Disclosure	166	63	110
Financial Interest Disclosure	768	935	975
Political Activity	11	16	6
City Property	4	24	26
Fiduciary Duty	9	11	9
Conflicts/Improper Influence	34	36	26
Money for Advice	26	1	5
Representation	13	16	11
Employment of Relatives	13	17	31
Confidential Information	1	3	0
General Information	56	37	44
No Jurisdiction ¹	40	38	24
Prohibited Conduct	0	8	6
Other	32	27	31 ²
Classes/Education	419	279	270
Freedom of Information	7	13	5

¹ Where possible, the Board refers these matters to other City, governmental, or private agencies.

² This figure includes 11 inquiries regarding Executive Order 97-1.

Section III - The 2003-2004 Reporting Year

Table II - Subject Matter of Cases/Yearly Comparisons

Table II shows the number and subject matter of the cases resolved¹ by the Board for the reporting years ending July 31, 2002, 2003 and 2004.

 Cases Resolved for Years Ending July 31:			
<i>Subject Matter</i>	2002	2003	2004
Outside Employment	7	2	2
Post-Employment	5	13	26
Gifts/Travel/Honoraria	14 ²	5	11
Interest in City Business	3	3	5
Campaign Financing	25 ³	46 ⁴	37
Lobbying Activity/Disclosure	15 ⁵	3 ⁶	3
Financial Interest Disclosure	24 ⁷	6 ⁸	108 ⁹
City Property	2	4	4
Fiduciary Duty	1	0	1
Conflicts/Improper Influence	2	2	5
Representation	2	1	3
Employment of Relatives	0	0	3
No Jurisdiction ¹⁰	7	12	9
Prohibited Conduct	0	0	1
Money for Advice	0	0	1
Contract Inducement	0	0	1

1. As in past years, these figures include all cases in which oral or written advice or opinions were issued. It also includes the 19 matters in which requests for written advice were withdrawn or complaints were referred to other agencies or dismissed before investigations were commenced or concluded, as well as 3 preliminary inquiries and 140 cases in which the Board issued written reports resulting from concluded investigations. See Table IV, on page 21 for more specific information on complaints received and investigations commenced and concluded during the reporting year.

2. This figure includes 4 preliminary inquiries and 4 related "Lobbyist Education" matters commenced and closed during the reporting year ending July 31, 2002.

3. This figure includes 2 preliminary inquiries commenced and closed during the reporting year ending July 31, 2002.

4. This figure includes 10 formal complaints received, 1 preliminary inquiry and 1 investigation commenced during the reporting year that ended July 31, 2002.

5. This figure includes 6 preliminary inquiries (pertaining to lobbyist agreements and fees) closed during the reporting year ending July 31, 2002, one of which was commenced during the reporting year ending July 31, 2001. It also includes 4 "Lobbyist Education" matters commenced and closed during the reporting year ending July 31, 2002.

6. This figure includes 1 preliminary inquiry (pertaining to lobbyist agreements and fees) commenced during the previous reporting year but closed in the one that ended July 31, 2003.

7. This figure includes 16 preliminary inquiries commenced and closed during the reporting year ending July 31, 2002, each pertaining to information reported by City employees and officials on their 2001 Statements of Financial Interests.

8. These cases were commenced in the reporting year that ended July 31, 2002, but closed in the reporting year ending July 31, 2003.

9. This figure includes 32 cases brought with respect to City employees who failed to timely file their 2003 Statements of Financial Interests, 75 who failed to timely file their 2004 Statements of Financial Interests, and one case in which the Board issued written legal advice. See Section III.D.2, on page 16, for more information.

10. Where possible, the Board referred these matters to other City, governmental, or private agencies.

2

Summaries of Relevant Inquiries and Opinions

The following summaries are based on actual inquiries received, responses given, and written opinions rendered. They are included for educational purposes only and are not intended to constitute legal advice. The only persons who may rely on Board opinions are those involved in the specific situations described in the opinions, or in situations that are materially indistinguishable from them. Anyone with questions about specific situations should contact the Board for personal guidance.

The Board can render advisory opinions when requested in writing by officials, employees or any persons directly and personally involved. Board opinions concern only the application of the City's Governmental Ethics and Campaign Financing Ordinances to the facts presented in the opinion, and do not include analysis of other rules or laws that may apply.

The Board handles all inquiries in accordance with the confidentiality requirements of the Ordinances. Copies of Board opinions, with identifying and other confidential information removed, are available on request. To the extent that these summaries differ from the language of the Ordinances or Board opinions, the language in the Ordinances and opinions controls.

Conflict of Interest/Improper Influence/Fiduciary Duty

The Ordinance prohibits a City employee or official from making, participating in the making of, or attempting to use his or her position to influence, any City decision in which the employee has an "economic interest" distinguishable from the general public. ("Economic interest" is defined as any interest valued or capable of being valued in monetary terms.) The Ordinance also imposes upon every City employee and official a fiduciary duty—a duty of loyalty—to the City.

Question: A City employee asks whether he would have a "conflict of interest" or would be violating his fiduciary duty to the City by making decisions (or supervising departmental staff who make decisions) affecting the firm that employed him before he became a City employee. He left that firm several years ago, and has no current economic interest in it (that is, he is owed no back pay and has no pension or retirement account with it).

Resolution: This City employee is no longer employed by his pre-City employer, and has no continuing monetary interest in it. Under the Ordinance, then, he does not have an "economic interest" in his pre-City employer, and is therefore not involved in a "conflict of interest" situation under the Ordinance. He is not prohibited from taking part in the process by which City decisions affecting that firm are made. Further, a City employee's fiduciary duty does not require that the employee be removed from decisions involving a prior employer in which the employee has no current economic interest. Rather, the employee's fiduciary duty requires that he consider (and discuss with his or her departmental superiors) whether he can, in good faith, put the City's interests before any personal feelings he may have regarding any particular firm or person, including a pre-City employer, and be able to exercise unbiased judgment in making decisions and properly perform his City duties.

Section III - The 2003-2004 Reporting Year

Employment of Relatives or Domestic Partners

The Ordinance prohibits City employees and officials from exercising “contract management authority” where any relative or domestic partner of theirs is employed by or has contracts with persons doing City work over which they have or exercise that authority, and from using or permitting the use of their positions to assist their relatives in gaining employment or contracts with persons over whom they exercise that authority. It defines “contract management authority” as personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract.

Question: A City employee has a nephew who recently graduated from the University of Illinois and began in an entry level position with a division of a large, multinational public company. The City employee manages a City contract being performed by a different division of the company. The City employee had nothing to do with her nephew’s hiring, and has no contact with personnel in his division. Is she prohibited from continuing to manage this contract?

Resolution: Because she exercises “contract management authority” over this City contract, this City employee would be prohibited from continuing to exercise that authority where her nephew (a nephew is included in the Ordinance’s definition of “relative”) is “employed by” a “person doing City work over which” she has or exercises that authority. Here, however, the company had more than 95,000 people working for six separate and separately managed divisions, each with its own budget, hiring, compensation structure, customers, product lines and locations, and there was little relevant connection between the division with the City contract and the division just joined by the nephew, and the City employee herself had no contact with personnel from her nephew’s division. On these facts, the company division that employed her nephew, was, for purposes of this provision of the Ordinance, a different “person” from the company division whose City contract this City employee managed. Therefore, the Ordinance did not prohibit her from continuing to exercise management authority over this contract.

Statements of Financial Interests

Article 2 of the Governmental Ethics Ordinance requires City employees who are compensated by the City for services per year at or above a specified rate (in 2004, the rate was \$66,300), or who occupy a City position budgeted for annual compensation at or above that rate, and certain City officials, to file a Statement of Financial Interests. On their Statements, they must disclose information about their outside business interests and sources of income in the current and prior calendar year. One of the disclosures required is the identity of any capital asset from which the filer realized a capital gain of \$5,000 or more in the previous year (except for the sale of the filer’s principal place of residence).

Question: A City employee asks whether it is sufficient, in answering Question 8 on the Statement of Financial Interests (which asks for the identify of any asset sold from which the filer realized a capital gain of \$5,000 or more) to write “I sold shares of a public company,” or “I sold shares of a mutual fund.”

Section III - The 2003-2004 Reporting Year

Resolution: No, those responses are not sufficient. The filer must provide the name of the company or mutual fund whose shares were sold, yielding the capital gain of \$5,000 or more. The Ordinance requires the filer to list “the identity of any capital asset” from the sale of which a capital gain of \$5,000 or more was realized. Both the plain meaning of the word “identity,” and a key purpose of requiring City employees and officials to file financial disclosure statements—which is to promote public confidence in government by providing access to certain information about the financial interests of City employees and officials—lead to the conclusion that, for this disclosure to be meaningful, the name of the company or mutual fund whose shares were sold must be disclosed. (Note: the Ordinance does not require the filer to disclose the amount of the capital gain.)

Post-Employment Restrictions

The Ordinance does not prohibit a person leaving City employment (whether by retirement or otherwise) from working for any particular new employer (or client), but it does restrict those matters on which the former employee may work. The restrictions may last for one year, or permanently.

- ◆ For one year after termination of City employment or term of office, a former employee or official shall not assist or represent any person in a business transaction involving the City, if the former employee or official participated personally and substantially in the subject matter of the transaction during City employment.
- ◆ A former employee or official is barred permanently from assisting or representing any person as to a City contract if he or she exercised contract management authority with respect to that contract during City employment.

Question: A former City employee asks whether he may enter into a consulting agreement with a City “operating” department to perform, part-time, essentially the same work he did while a City employee. He also asks whether, if the Ordinance permits that arrangement, it would prohibit him from having a second part-time post-City job as an employee of a private firm, performing work unrelated to any work he did during his City employment.

Resolution: Although the Ordinance typically prohibits a City employee from assisting a new employer by performing the same work he or she did for the City for one year (and in some cases, permanently), certain consulting arrangements between former employees and the City itself are not prohibited by the Ordinance, if specific conditions are met. These conditions are: 1) the City seeks the former employee’s services and stands to benefit substantially by hiring him as a consultant; 2) he enters into the contract as an individual, and does not represent the interests or act as an agent of any other entity in connection with these responsibilities; 3) the agreement is written; and 4) the agreement contains language obligating the former employee to act at all times in the City’s best interests. Further, although a proposed consulting agreement between a former City employee and an “operating department” may be permissible under the Ordinance, its terms must be reviewed and approved by the Mayor’s Office, the Office of Budget and Management, the Law Department, and the Head of the contracting department before it can become

Section III - The 2003-2004 Reporting Year

effective. Finally, neither the Ordinance nor any of the conditions listed above would prohibit this former employee from having other post-City employment that is unrelated to his part-time consulting arrangement with the City—the requirement that he enter into a consulting agreement with the City as an individual, not as a representative or agent of another entity, is not a requirement that he devote 100% of his time exclusively to the City (such that he would be prohibited from having other employment or entering into consulting contracts with other entities to perform work that is unrelated to the City).

Service on Outside Board of Directors/Representation

The Ordinance does not prohibit City employees or officials from engaging in certain activities outside their City service, such as serving as an uncompensated Board member of a non-profit organization. But it does impose restrictions.

Question: A City employee asks whether the Ordinance prohibits or restricts her from serving as an uncompensated Board member of a non-profit corporation she intends to establish, and whether the corporation can purchase real estate from the City or apply for and receive City grant monies.

Resolution: The Ordinance does not *per se* prohibit her from establishing the non-profit corporation, or from serving as an uncompensated Board member, or the non-profit itself from purchasing real estate from the City. There are restrictions that apply to this City employee's conduct both in her City position and in her outside position, however. They are: 1) under § 2-156-090(a) ("Representation of Other Persons"), she may not represent the corporation before City departments or agencies with regard, for example, to the sale of City property or obtaining City grant funds, although other staff from the corporation who are not City employees may do so (this prohibition includes making telephone calls to City employees on behalf of, or signing documents on behalf of the corporation to be submitted to City departments); 2) under § 2-156-060 ("City-Owned Property") she may not use City property, such as telephones, fax machines, email, etc. regarding the corporation; 3) under § 2-156-070 ("Confidential Information") she may not use or disclose any confidential information gained during the course of her City employment; 4) under § 2-156-020 ("Fiduciary Duty") she must use her City position responsibly and in the City's best interests, and must be able to exercise professional judgments free from outside influences or conflicting duties to other entities (such as this corporation, to which, as a Board member, she would also owe a fiduciary duty); and 5) although, as an unpaid Board member of the corporation, she would not have an economic interest in it, and would thus not be explicitly prohibited (under §§ 2-156-030 and -080, respectively entitled "Improper Influence" and "Conflicts of Interest") from making or participating in City decisions affecting the corporation, she was advised to recuse herself from any such decisions in order to avoid even the appearance of impropriety.



D. Regulation and Enforcement Activities

1. Campaign Financing

The City's Campaign Financing Ordinance limits the amount of money that certain persons may contribute during a political reporting year (July 1 through June 30) to candidates for elected City office, elected City officials, and City employees and officials seeking election to any other office. These persons are: 1) lobbyists registered with the Board; 2) persons who, within the last four political reporting years, have done business with the City or one of its sister agencies; and 3) persons seeking to do business with the City or a sister agency.

The Board monitors contributors' compliance with these limitations by reviewing campaign financing disclosure reports candidates' political committees file with the County Clerk pursuant to state law. The Board compares these reports with City and sister agency contract records, matters referred to the City Council and/or Council committees, and lobbyists' registration statements filed with the Board. During the past reporting year, the Board began its regular review of more than 2,050 disclosure reports and 56,000 pages of City Council and committee matters, but as of July 31, 2004, had not yet initiated any preliminary inquiries or investigations. However, the Board did conclude 5 preliminary inquiries and 35 investigations, all commenced in the previous reporting year. These are summarized more fully in Section III.D.4, below, at pages 19-21.

2. Statements of Financial Interests

Certain City employees and officials are required to file Statements of Financial Interests with the Board of Ethics each Spring, in accordance with Article 2 of the Ethics Ordinance. The Board distributes, collects, and reviews these Statements for compliance with the Governmental Ethics Ordinance.

In calendar year 2004, approximately 12,000 City employees and officials were required to file Statements of Financial Interests. The majority of these individuals were required to file with the Board by May 31, 2004, or be in violation of the Ordinance. Individuals required to file by May 31 but who actually filed after May 1 were also required to pay the \$20 late filing fee mandated by the Ordinance. During the reporting year, the Board collected over \$10,800 in late filing fees; this figure represents a 10% increase over the amount collected during the previous reporting year.

During the reporting year, the Board commenced 49 cases with respect to City employees who failed to timely file their 2003 Statements of Financial Interests, and 75 with respect to those who failed to timely file their 2004 Statements of Financial Interests. Of the 49 cases brought for failure to timely file 2003 Statements of Financial Interests, 32 resulted in determinations of violations; of the 75 cases brought for failure to timely file 2004 Statements of Financial Interests, all resulted in determinations of violations. As of July 31, 2004, 2 employees had not yet filed their 2003 Statements as required, and 10 had not filed their 2004 Statements as required.

Section III - The 2003-2004 Reporting Year

3. Lobbyist Registration and Activity

The Board of Ethics regulates persons who lobby City government. Article 3 of the Ethics Ordinance requires all lobbyists to register with the Board each January 20, and file reports about their lobbying activities with the Board each January 20 and July 20. Persons whom the Board of Ethics determines have failed to register as lobbyists as required are subject to fines, as are persons who retain or employ lobbyists who have failed to register as required. A City contract performed or entered into with any person who has retained or employed a non-registered lobbyist for the purpose of negotiating, soliciting or otherwise seeking the contract, shall be voidable as to the City.

In their filings, lobbyists are required to identify their clients, list their lobbying-related compensation and expenditures, the City agencies they lobby, and which legislative and administrative actions are the focus of their lobbying activity, provide itemized lists of gifts they have given to City officials and employees, and furnish a copy of any written agreement of retainer or employment pursuant to which they lobby or a written statement of the substance of any oral agreement pursuant to which they lobby.

In accordance with state law and the Governmental Ethics Ordinance, all lobbyists' filings are available for public inspection and duplication. The Board of Ethics maintains lobbyist filings for seven years following the date of filing.

Who Is Registered?

Number of Lobbyists

As of the end of the reporting year, there were 360 lobbyist registration statements on file. These statements identified 462 individuals associated with or employed by these lobbyists. These lobbyists represented 1,007 clients.

Lists of lobbyists and their clients

The Board maintains a regularly updated list of registered lobbyists and their clients on its Website. To view the list, see <http://www.cityofchicago.org/Ethics>.

Who Retains Lobbyists?

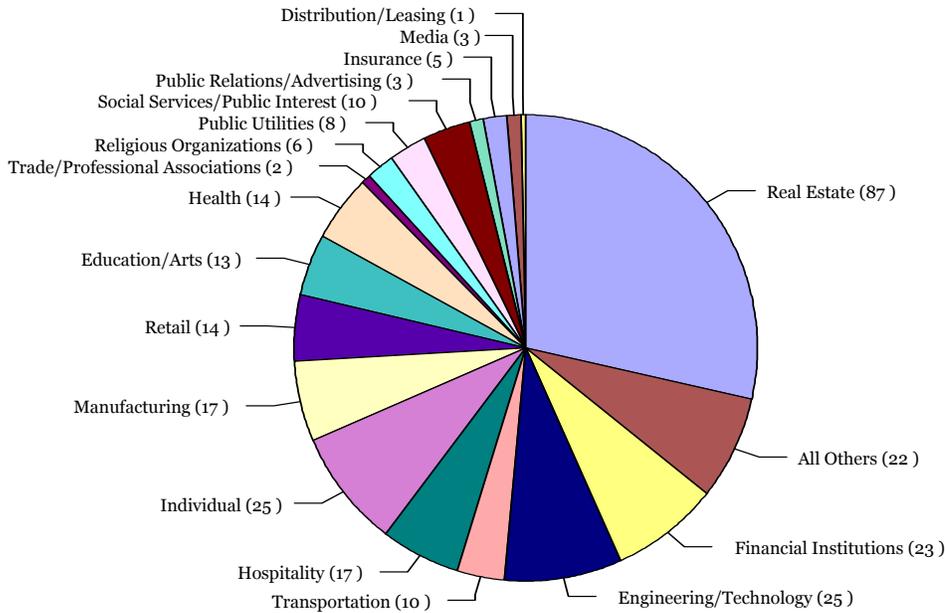
The Governmental Ethics Ordinance requires registered lobbyists to disclose the name and business interests of all clients on whose behalf they lobbied during the six months prior to filing their semi-annual activity reports.

Section III - The 2003-2004 Reporting Year

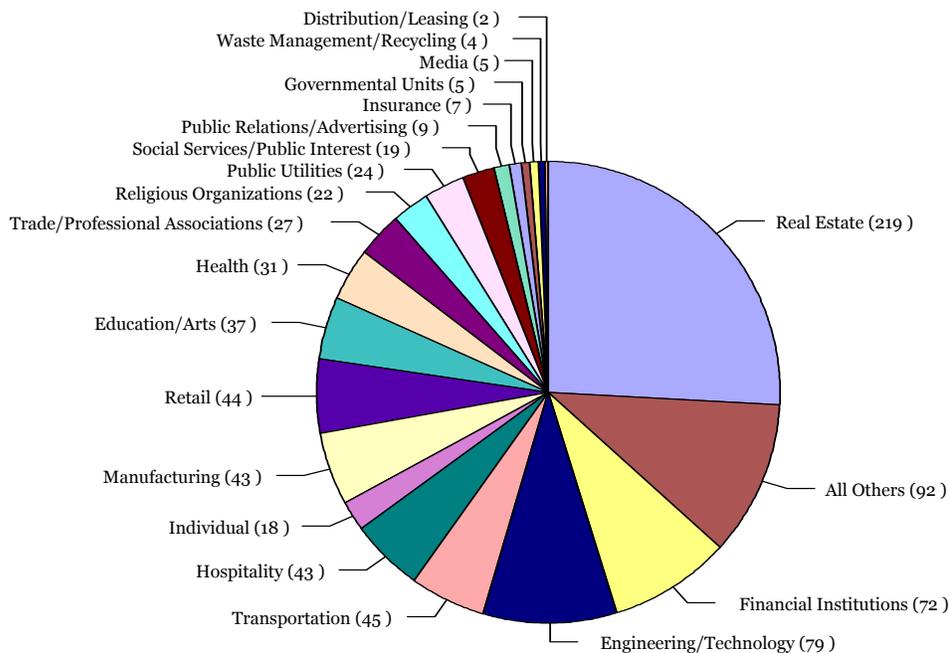
Table III - Business Interests of Clients Represented by Lobbyists

The following charts compare the number of clients, by the clients' business interests, who were represented by lobbyists during the periods July 1, 2003 through December 31, 2003, and January 1, 2004 through June 30, 2004.

July 1, 2003 through December 31, 2003



January 1, 2004 through June 30, 2004



Section III - The 2003-2004 Reporting Year

4. Investigations, Complaints and Preliminary Inquiries

The Board has the authority to receive complaints and conduct investigations and inquiries into alleged violations of the Ordinances, issue subpoenas during the course of investigations, and recommend or impose appropriate sanctions or corrective actions if it determines that a violation has occurred. All Board complaints, inquiries, investigations, reports and recommendations are subject to the confidentiality requirements of the Ordinances.

Preliminary Inquiries

Each year the Board reviews information disclosed on public documents filed with it (and with the Cook County Clerk's Office) by City officials, employees, lobbyists registered with the Board, and candidates for elected City office. These documents include Statements of Financial Interests, Lobbyist Registration Statements and Activity Reports, Aldermanic disclosures and campaign contribution reports. If, based on the Board's review, a possible violation of the Governmental Ethics or Campaign Financing Ordinance is indicated, the Board commences a preliminary inquiry. Based on a preliminary inquiry, the Board may find there is reasonable cause to believe that one or more provisions of the Ordinances may have been violated, in which case it initiates an investigation; the Board may also close the inquiry on the basis that no reasonable cause exists to believe there is a potential violation, and may advise the subject of the relevant provisions and penalties contained in the Ordinances.

❖ Statements of Financial Interests

During the reporting year, the Board commenced and closed one preliminary inquiry based on its review of the Statements of Financial Interests filed by City employees and officials. It closed the inquiry without initiating an investigation.

❖ Lobbyists' Filings

During the reporting year, the Board commenced and closed 1 preliminary inquiry (pertaining to a prohibited contingent lobbying fee) based on its review of information disclosed in filed Lobbyist Registration Statements and Activity Reports. The Board closed the preliminary inquiry based on subsequently received information.

❖ Disclosures filed by City Council Members

The Board commenced no preliminary inquiries based on its review of disclosures filed by City Council members.

❖ Campaign Financing

Based on its review of campaign contribution reports filed with the County Clerk's office, City contract records and matters referred to City Council Committees, the Board closed 5 preliminary inquiries into whether certain campaign contributors had violated the City's

Section III - The 2003-2004 Reporting Year

Campaign Financing Ordinance. All 5 of these Preliminary Inquiries were commenced during the previous reporting year. 3 led to investigations in which contributors were determined to have violated the campaign contribution limitations, and compliance was effected; the remaining 2 were closed based on subsequently received information. (See Table IV, on page 21, for more information).

Concluded Investigations

As summarized in Table IV, on page 21, during the reporting year, the Board concluded 1 investigation involving the Ordinance's post-employment restrictions, and 107 investigations with respect to City employees who failed to file Statements of Financial Interests within the time prescribed by law. With respect to the Campaign Financing Ordinance, the Board concluded 35 investigations (all commenced in the previous reporting year). In 34 of these cases, the Board determined that the contributor had violated the Ordinance (the 3 investigations that began as preliminary inquiries are included in this total); and in the remaining case, determined that there was no violation. In 3 of these cases in which the Board determined that the contributor had violated the contribution limitations, the Board vacated its determination based on subsequently presented information. As of July 31, 2004, the Board had concluded all 35 of these cases, and had effected corrective action in all but 2 cases where it was indicated (in one case, the Board could not locate the contributor; in the other, corrective action was not possible due to insufficient funds).

Filed Complaints

During the reporting year, 15 complaints were filed with the Board. Three of these alleged violations involving the unauthorized use of City property, 1 alleged, respectively, violations of the post-employment restrictions, the conflict of interests provision, the employment of relatives or domestic partners provision and the fiduciary duty provision; the remaining 8 raised issues outside the Board's jurisdiction (though, where possible, the Board referred complainants to other appropriate agencies or persons). As required by law and the Board's Rules and Regulations, the Board reviewed each complaint to determine whether there was reasonable cause to initiate an investigation into the allegations. The Board commenced 1 investigation (based on a complaint alleging violation of the post-employment restrictions) and determined that the Ordinance had been violated, dismissed the 8 complaints referred to above for lack of jurisdiction and dismissed the remaining 6 for failure to establish reasonable cause.

Section III - The 2003-2004 Reporting Year

Table IV - Subject Matter of Investigations, Complaints and Preliminary Inquiries

Table IV shows the subject matter of complaints received, preliminary inquiries commenced and/or concluded, investigations initiated and investigations concluded by the Board during the reporting year just ended.

Subject Matter	Formal Complaints Received	Preliminary Inquiries Commenced or Concluded	Investigations Commenced	Investigations Concluded
City Property	3	-	-	-
Disclosure of Financial Interests	-	1	124	107 ¹
Campaign Financing	-	5 ²	-	35 ³
Lobbyist Registration/Disclosure	-	1	-	-
No Jurisdiction	8	-	-	-
Post-Employment	1	-	1	1
Conflict of Interests	1	-	-	-
Fiduciary Duty	1	-	-	-
Employment of Relatives/Domestic Partners	1	-	-	-
Total	15	7	125	143

1. All were commenced during the reporting year with respect to City employees who failed to timely file Statements of Financial Interests. Of the 49 cases brought for failure to timely file 2003 Statements of Financial Interests, 32 resulted in determinations of violations; of the 75 cases brought for failure to timely file 2004 Statements of Financial Interests, all 75 resulted in determinations of violations.

2. All 5 of these Preliminary Inquiries were commenced during the previous reporting year. 3 led to investigations in which contributors were determined to have violated the campaign contribution limitations, and compliance was effected; the remaining 2 were closed based on subsequently received information.

3. See "Concluded Investigations," on page 20, above, for an explanation of the disposition of these 35 cases.

5. Executive Order 97-1 Disclosures

Mayoral Executive Order 97-1, effective December 1, 1997, imposes restrictions on the conduct of employees in all executive departments, the Mayor's Office, the Mayor's security detail and City department heads. It requires that employees in executive departments make written disclosure to the Board of Ethics each year of their spouses' ownership interest in entities that contract with persons doing City business.

In this past reporting year, the Board published the disclosure form (it is also posted on the Internet), coordinated its distribution to approximately 23,000 married City employees, collected the returned forms, and referred to the Law Department 13 forms requiring further review.

6. Aldermanic Disclosures

The Conflicts of Interest provision of the Governmental Ethics Ordinance requires members of City Council to file written disclosure with the Board of Ethics with respect to matters pending before the City Council or its committees, and to disclose their interests in these matters on the records of Council proceedings and abstain from voting on these matters. The Board regularly reviews records of Council proceedings and other documents to ensure compliance with the law. As provided by law, the Board also reviews, maintains and makes these disclosures available for public inspection upon request. In the reporting year ended July 31, 2004, the Board received 41 of these disclosures, covering 216 distinct pending matters or items. These figures represent a 20% increase in the number of disclosures received over the number received during the previous reporting year, and a 42% increase in the number of separate matters disclosed over the number disclosed during the previous reporting year.



NOTE:

Scanned copies of all disclosures filed by City Council members received by the Board during the most recent 4 month period are posted on the web. See:

www.cityofchicago.org/Ethics



E. Examinations of Public Filings

In accordance with state law and City Ordinance, Statements of Financial Interests, Aldermanic disclosures, advisory opinions and lobbyist filings maintained by the Board of Ethics are available for public examination and duplication.

During the 2003-2004 reporting year, the Board received 21 requests to examine Statements of Financial Interests filed by 73 City employees and officials, 1 request to examine Aldermanic disclosures, and 21 requests to examine a total of 21 filings made by 26 separate lobbyists.

For More Information

Board of Ethics staff members are available to answer any inquiries you may have about the Board, or to provide you with guidance about the requirements of the City's Governmental Ethics or Campaign Financing Ordinances. To reach us, please call 312-744-9660 (TT/TDD 312-744-5996), send us a FAX at 312-744-2793, or an email at deng@cityofchicago.org

To obtain an advisory opinion or guidance about a specific situation, or to file a complaint, please contact **Dorothy J. Eng, Executive Director**, or write or stop in to the Board's office:

CITY OF CHICAGO BOARD OF ETHICS
740 North Sedgwick, Suite 500
Chicago, Illinois 60610

Also, please visit our web site: www.cityofchicago.org/Ethics

There, you will find complete texts of the Governmental Ethics and Campaign Financing Ordinances, profiles of Board members, the current list of registered lobbyists and their clients, blank downloadable copies of all forms required to be filed with the Board, educational materials, disclosures filed by City Council members regarding potential conflicts of interests, the Board's last four Annual Reports and other helpful information.